

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,
vs.
Civil No. 4:12-cv-15374
Honorable Mark A. Goldsmith
Magistrate Judge Laurie J. Michelson

EIGHTY FIVE THOUSAND EIGHT
HUNDRED SEVEN DOLLARS AND
ONE CENT (\$85,807.01) IN U.S. CURRENCY
FROM PNC BANK ACCOUNT XXXXXX1653;
AND THIRTY FOUR THOUSAND FOUR
HUNDRED NINETY DOLLARS AND
FORTY-NINE CENTS (\$34,490.49) IN U.S.
CURRENCY FROM FIFTH THIRD BANK
ACCOUNT XXXXXX3312,

Defendants in *Rem.*

STIPULATED CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

NOW COMES the Plaintiff, the UNITED STATES OF AMERICA, (hereinafter the
“United States” or the “Government”), by and through its counsel, BARBARA L. McQUADE,
United States Attorney, and JONATHAN J.C. GREY, Assistant United States Attorney, and
Claimants, ANDY ATTISHA, individually, and as owner of MARTELL DEVELOPMENTS,
LLC. and LEMIS ATTISHA, (“Claimants”) by and through their attorney, JOSEPH FALCONE,
and enter into this Stipulated Consent Judgment and Final Order of Forfeiture, as evidenced by
the signatures below, under the terms and conditions hereinafter set forth:

WHEREAS, a Complaint for Forfeiture (“Complaint”) in this matter was filed on
December 7, 2012, and a First Amended Complaint for Forfeiture was filed on December 11,

2012, by the United States alleging that Eighty Five Thousand Eight Hundred Seven Dollars and One Cent (\$85,807.01) in U.S. Currency from PNC Bank Account XXXXXX1653; AND Thirty Four Thousand Four Hundred Ninety Dollars and Forty-Nine Cents (\$34,490.49) in U.S. currency from Fifth Third Bank Account XXXXXX3312, (hereafter the “Defendant Currency”) was subject to forfeiture pursuant to 31 U.S.C. § 5317;

WHEREAS, Claimants Andy Attisha, Martell Developments, LLC and Lemis Attisha timely filed a verified claims to the Defendant Currency on December 21, 2012; an answer on December 19, 2012 and amended answers were filed in response to the First Amended Complaint for Forfeiture on December 20, 2012;

WHEREAS, no other interested parties have filed a verified claim as to the Defendant Currency;

WHEREAS, notice of publication has been completed in this case;

WHEREAS, the parties are aware of their respective rights in this matter and wish to resolve this matter without further litigation and expense.

NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:

1. This action is a civil *in rem* forfeiture action brought pursuant to 31 U.S.C. § 5317.
2. The Court has jurisdiction and venue over this matter pursuant to 28 U.S.C. §§ 1345 and 1355(b)(1)(A).
3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b)(2) as a substantial part of the events giving rise to the Government’s claims occurred in

the Eastern District of Michigan. Venue is also proper before this Court pursuant to 28 U.S.C. § 1395(b), as the Defendant Currency was found and seized in the Eastern District of Michigan.

4. The allegations of the Complaint are well taken, the United States and its agents had reasonable cause for the seizure of the Defendant Currency, the position of the United States in this action is and has been substantially justified as set forth in 28 U.S.C. § 2412, and Claimant shall not claim or seek any fees or costs, including attorney's fees, in connection with this matter, whether under the Civil Asset Forfeiture Reform Act of 2000, the Equal Access to Justice Act, any other statute, rule or regulation, or otherwise.
5. Forty Thousand Two Hundred Ninety-Seven Dollars and Fifty Cents (\$40,297.50) in U.S. Currency of the Defendant \$120,297.50 will **NOT BE FORFEITED** but will be **RETURNED** to Claimants Andy Attisha, Lemis Attisha and Martell Developments, LLC under the terms and conditions herein stated. The disbursement of the funds (\$40,297.50) will be through the Electronic Payment System. Claimants will provide their social security number or tax identification number, and their attorney, JOSEPH FALCONE; will supply the Automated Clearing House ("ACH") information for electronic fund transfer to the Government. Funds will only be disbursed after receiving Claimants' social security number or tax identification number and the ACH information for electronic deposit of the funds into the IOLTA account designated by JOSEPH FALCONE. After this Stipulated Consent Judgment and Final Order of

Forfeiture is entered by the Court, the Government will authorize the United States Marshals Service (“USMS”) for the Eastern District of Michigan or its delegate to return \$40,297.50 of the Defendant \$120,297.50, less any debt owed to the United States, any agency of the United States, or any other debt in which the United States is authorized to collect from Claimants, including, but not limited to any debts authorized to be collected through the Treasury Offset Program.

6. The remaining Eighty Thousand Dollars (\$80,000.00) of the Defendant \$120,297.50, plus any interest accrued on the Defendant \$120,297.50 since the date of seizure, shall be **FORFEITED** to the United States pursuant to 31 U.S.C. § 5317. Further, any right, title or interest of Claimant and/or his successors and assigns in the remaining \$80,000.00, and any interest on the Defendant \$120,297.50, is hereby and forever **EXTINGUISHED**, and clear title and all interest in the remaining \$80,000.00 and any interest accrued on the Defendant \$120,297.50 shall hereby be **VESTED** in the United States, and the United States Marshal Service, or its delegate is **AUTHORIZED** to dispose of the Defendant \$120,297.50 and any interest accrued on the Defendant \$120,297.50 according to law.
7. Claimants hereby withdraw their claim to \$80,000.00 of the Defendant \$120,297.50 plus any interest accrued on the entire Defendant \$120,297.50 since the date of seizure.
8. Upon signing below, Claimants release, remise and forever discharge the

Government and its agents, officers, employees, past and present, and all other persons, including but not limited to the Internal Revenue Service, any individual local law enforcement officers or departments or agencies, and any other persons who participated in or assisted in any aspect of this forfeiture action and underlying investigation, from all claims or causes of action which Claimants, and/or their assignees, agents, officers, employees and/or successors in interest had, now have or may have against the Government and its agents, officers, employees, past and present, and all other persons, for or on account of the incidents or circumstances giving rise to the above-captioned action.

9. Entry into this Stipulated Consent Judgment and Final Order of Forfeiture does not constitute an admission by Claimants of any criminal or civil wrongdoing.
10. Claimants have discussed this settlement with counsel and are aware of their rights in this matter. The parties shall bear their own costs and attorney fees in this matter.

WHEREFORE, the parties stipulate to entry of this Stipulated Consent Judgment and Final Order of Forfeiture.

Agreed as to form and substance:

BARBARA L. McQUADE
United States Attorney

(Signatures on the following page)

S/ JONATHAN J.C. GREY

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Jonathan.grey@usdoj.gov
(Illinois Bar No. 6292918)

Dated: June 12, 2013

S/ JOSEPH FALCONE (with consent)

JOSEPH FALCONE
Attorney for Claimants
3000 Town Center, Ste. 2370
Southfield, MI 48075
(248) 357-6610
jf@lawyer.com
(P25727)

Dated: June 12, 2013

(See attached signature page)

ANDY ATTISHA, Individually and on
Behalf of Martell Developments, LLC
Claimants

Dated: June 12, 2013

(See attached signature page)

LEMIS ATTISHA, Claimant

Dated: June 12, 2013

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated: June 14, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on June 14, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager

Jonathan J.C. Grey
JONATHAN J.C. GREY
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Dated: June 12, 2013

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JOSEPH FALCONE
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jf@lawyer.com
(P25727)

Dated: June 12, 2013

Andy Attisha
ANDY ATTISHA, Individually and on
Behalf of Martell Developments, LLC
Claimants

Dated: June 12, 2013

Lemis Attisha
LEMIS ATTISHA, Claimant

Dated: June 12, 2013

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated: _____

HONORABLE MARK A. GOLDSMITH
United States District Court Judge